

Subj: **Re: Fw: The Isham / Claypool MSC on January 18th**  
Date: 1/15/2006 9:16:58 P.M. Pacific Standard Time  
From: Lizardbrane  
To: JSteiner@m4law.com, Uroy3, mcguire@divelaw.com  
CC: hoppea001@hawaii.rr.com, RBaldemor@goodsill.com, rfm@robertmiller.com

In a message dated 1/13/2006 3:09:41 P.M. Pacific Standard Time, JSteiner@m4law.com writes:

Everyone: The attached Motion and Ex Parte Motion was electronically filed today.

Jon

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Jon- Per our telephone conversation of this afternoon, I advised you that your motion completely distorted the history and facts of the case, so as to mislead the Court. Specifically, on page 7 paragraph 2 of your Memorandum you advised the court that Lexington did not agree to provide a defense to BDC as to Isham's claim, and that BDC "retained its own individual counsel, Robert Miller, to defend those claims".

That is completely false; Lexington's retained counsel, Goodsell, Anderson, filed the answer to the Isham complaint in October, their same retained counsel refused to stipulate to allow the Isham complaint to proceed before a jury, elected to file the separate limitation action and post the bond, and did not substitute out in favor of Miller until 3 months after that January 2005 action was filed, on April 21, 2005.

As previously noted, Lexington's retained counsel also filed the only opposition to Isham's current pending motion regarding a Section 53 violation, a matter unrelated to the Limitation action.

As I advised, if the motion is not withdrawn by close of business Tuesday i will request sanctions for having to respond. Rick Lesser